

REMARKS

Claims 1 and 2 are currently pending in the present application. In the Office Action, Claims 1 and 2 have been rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent Application Publication No. EP 1039 768 A2 (Sim) in view of Kinnunen et al. (U.S. Pub. 2001/0021649).

Reconsideration of the instant application is respectfully requested.

Sim discloses a data transmitting and receiving apparatus and method for a digital mobile station.

Kinnunen discloses a receiver, which is initially presented with a message header screen 11 (Fig. 3) setting out details 12 of the message including warnings of any content which may alarm or otherwise disturb the recipient such as the presence of loud sounds and the like. The message header might also list the requirements for reading the file. For example, the file may contain a video clip that may be displayed on a television. (See Paragraph 0021).

Regarding independent Claim 1, the Examiner states that *Sim* discloses all of the elements of Claim 1 except for “outputting an alarm and displaying a predetermined icon for SMS message having data of the image file if the header information indicates the image message,” which the Examiner states is disclosed by Kinnunen. Applicant respectfully disagrees.

Although Sim discloses a memory (e.g. 23 of Fig. 2, 33 of Fig. 3, 38 of Fig. 3 Flash), Sim does not expressly articulate, or fairly suggest “assigning a name according to a receiving user request before permanently storing the image file.” The Examiner cites paragraph 46 of Sim for the proposition that Sim teaches “assigning a name according to a receiving user request before permanently storing the image file.” The cited passage is reproduced here to facilitate comparison with the inventive recitation. “As described above, the decoded data is stored in the specified storage regions of the graphic data storage section 38. Sim, paragraph 46, lines 47-49. As can be seen, Sim does not teach “assigning a name according to a receiving user request before permanently storing

the image file.” (emphasis added).

Furthermore, the Examiner cites paragraph 21 of Kinnunen for curing Sim’s deficiency. The Examiner emphasized that the message taught by Kinnunen includes warnings of any content which may alarm or otherwise disturb the recipient such as the presence of loud sounds and the like. In contrast, the present invention recites “outputting an alarm and displaying a predetermined icon for SMS message having data of the image file if the header information indicates the image message, and temporarily storing the image in the memory.” (emphasis added). In addressing this limitation, the Examiner conveniently failed to associate the temporary storage of file in conjunction with outputting an alarm. Moreover, while Kinnunen might display a warning, this is not outputting an alarm as recited in Claim 1. Accordingly, these rejections are traversed, because the prior art reference fails to teach or suggest all the claim limitations. In order for the Examiner to establish a prima facie case of obviousness, at least the prior art reference must teach or suggest all the claim limitations.

Accordingly, amended independent Claim 1 is believed to be in condition for allowance. Without conceding the patentability per se of dependent Claim 2, it is likewise believed to be allowable by virtue of its dependence on Claim 1. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2 is also respectfully requested.

As Sim does not disclose at least the above elements of amended Claim 1, withdrawal of the rejection is respectfully requested.

Independent Claim 1 is believed to be in condition for allowance. Without conceding the patentability per se of dependent Claim 2, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1 and 2, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over a horizontal line.

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

THE FARRELL LAW FIRM, PC
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-3565
Fax: (516) 228-8475

PJF/EC